

**Memorandum of Understanding
between the
Commission for Energy Regulation
and the
Irish Maritime Administration of the
Department of Transport, Tourism and Sport**

June 2014

1. Objective and Scope of the Memorandum of Understanding

The objective of this Memorandum of Understanding (“MoU”) between the Commission for Energy Regulation (“CER”) and the Irish Maritime Administration (the “IMA”) of the Department of Transport, Tourism and Sport is to provide the overarching framework to facilitate cooperation and mutual assistance between the CER and the IMA in the discharge of their respective statutory responsibilities in order to:

- enhance the actions of both,
- avoid unnecessary duplication of effort by both;
- avoid the imposition of unnecessary regulatory burden.

Both the CER and the IMA are committed to a policy of ongoing cooperation and interaction with respect to the discharge of their respective statutory responsibilities. Notwithstanding this commitment to cooperate generally, the specific focus of this MoU is to provide the basis for the development of operational agreements (the ‘Operational Agreements’) relating to the CER and the following parts of the IMA: Marine Survey Office (MSO) and the Irish Coast Guard (IRCG).

2. Operational Agreements under the MoU

Two Operational Agreements will be developed under this MoU:

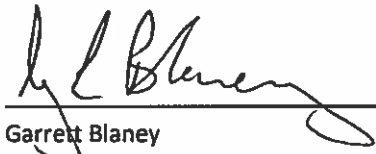
1. CER – MSO Operational Agreement
2. CER – IRCG Operational Agreement

The scope of the CER – MSO Operational Agreement and the CER – IRCG Operational Agreement will relate to cooperation and coordination of the regulation of petroleum undertakings within an offshore environment.

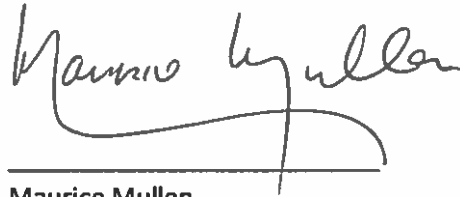
The above Operational Agreements are attached as Annexes to this MoU and for the avoidance of doubt, form part of this MoU.

3. Review of Memorandum of Understanding

This MoU is effective from the date of signing by the CER and the IMA. This MoU is not legally binding on the Bodies but rather is an expression of individual and collective commitment to work together in order to realise the shared objectives expressed herein.



Garrett Blaney
Chairperson
Commission for Energy Regulation



Maurice Mullen
Assistant Secretary General
Irish Maritime Administration
Department of Transport, Tourism & Sport

DATE: 3 July 2014.

DATE: 25 June 2014.

ANNEX I

Commission for Energy Regulation (CER) and Marine Survey Office (MSO) Operational Agreement

Objective and Scope of the Operational Agreement

The objective of this Operational Agreement between the Commission for Energy Regulation ("CER") and the Marine Survey Office (the "MSO") is to facilitate cooperation and mutual assistance between the CER and MSO in the discharge of their respective statutory responsibilities in order to:

- enhance the actions of both
- avoid unnecessary duplication of effort by both
- avoid the imposition of unnecessary regulatory burden

The purpose of this Operational Agreement is to clearly identify the roles and responsibilities of the CER and the MSO (the 'Bodies') as they may relate to each other and to set out the areas where both will cooperate and coordinate their activities. Both the CER and the MSO are committed to a policy of ongoing cooperation and interaction with respect to the discharge of their respective statutory responsibilities. Notwithstanding this commitment to cooperate generally, the specific focus of this Operational Agreement relates to cooperation and coordination of the regulation of petroleum undertakings within an offshore environment.

Statutory Responsibilities of MSO and CER relevant to the scope of the Operational Agreement

a) MSO

The MSO is part of the Irish Maritime Administration of the Department of Transport, Tourism and Sport. It is the purpose of the MSO to regulate maritime transport, commercial fishing vessels and recreational craft both at sea and on inland waters in relation to the following:

- Safety
- Security
- Ship sourced pollution prevention
- Living and Working Conditions on-board vessels
- Accessibility,

in relation to:

- Irish Ships – In Ireland and abroad
- Irish Seafarers including fishers and recreational craft users
- Irish Ports - (Security, Bulk Terminals and Waste)
- Foreign Ships in Irish Ports

Consequently the MSO has a key role in regulating any ship or vessel that is involved in the offshore exploration or extraction of petroleum reserves within Irish waters including drilling unit (MODUs), semi submersibles, floating units (FPSOs, FSUs, FSOs), construction and supply vessels.

Further detail on the MSO is available at

<http://www.dttas.ie/maritime/english/marine-survey-office-mso>

b) CER

The CER was established in 1999 and its role and functions have been expanded over time by legislation including the *Electricity Regulation Act 1999*, *Gas Act 1976*, *Gas (Interim) Regulation Act 2002*, *Energy (Miscellaneous Provisions) Act 2006 & 2012* and *Petroleum (Exploration and Extraction) Act 2010* (as are amended from time to time) and related secondary legislation. The CER has various safety and economic functions including the regulation of electricity and gas undertakings and ensuring the competitive, sustainable and reliable supply of electricity and natural gas at reasonable cost to Irish energy customers. The CER is also responsible for the safety regulation of upstream petroleum activities by petroleum undertakings, the safety regulation of gas supply, transmission, distribution, storage and use of gas, and the registration of electrical contractors and gas installers.

The specific functions of the CER which are relevant to the scope of this Operational Agreement are to:

- regulate designated petroleum activities of petroleum undertakings with respect to safety
- issue safety permits
- monitor and enforce compliance of petroleum undertakings with their safety obligations under Part IIA of the Electricity Regulation Act 1999¹
- investigate and report to the Minister for Communications, Energy and Natural Resources on petroleum incidents²
- provide safety information to the public when appropriate.

¹ As amended by the *Petroleum (Exploration and Extraction) Safety Act 2010*

² Means an event or occurrence in, at or in the precincts of petroleum infrastructure which

- (a) results in the loss of human life
- (b) results in personal injury being suffered by a person
- (c) results in damage to the structural integrity of petroleum infrastructure
- (d) results in the structural integrity of petroleum infrastructure being compromised
- (e) results in the failure or malfunction of plant and equipment used as part of or in a manner closely associated with petroleum infrastructure
- (f) is an event or occurrence of class prescribed in regulations by the CER

The principal objective of the CER in carrying out its functions is to protect the public by fostering and encouraging safety as respects the carrying on of designated petroleum activities, with the duty to perform its functions in the public interest and to do all things necessary and reasonable to further its objectives and exercise its powers. How the CER discharges this petroleum safety regulatory role is set out in the regulatory document, the High Level Design of the Petroleum Safety Framework.

The other functions of the CER are set out at www.cer.ie

Areas of Interface

The respective statutory responsibilities of the MSO and the CER interface with respect to any ship or vessel that is involved in carrying out petroleum activities offshore. This includes, but is not limited to, drilling unit (MODUs), semi submersibles, floating units (FPSOs, FSUs, FSOs), construction and supply vessels that are carrying out petroleum activities. However the transit to the petroleum exploration/extraction location, whether self propelled or towed, by sea going vessels such as drill ships and rigs involved in well work is not a petroleum activity. Therefore the MSO and CER statutory responsibilities only interface where a vessel is at the site of a petroleum activity (i.e. at the well or the proposed well).

Areas for Cooperation and Coordination

In acknowledging each others respective statutory responsibilities, functions and duties, both the CER and the MSO will endeavour to liaise closely particularly in relation to the areas set out below:

a) Safety Case Assessment

The CER will formally consult with the MSO as part of the assessment of safety cases, safety case revisions and the approval of safety case thorough reviews with respect to petroleum undertakings operating in an offshore environment.

MSO observations and any notifications under point a) above, are particularly relevant to the CER function to monitor and enforce compliance of petroleum undertaking's General Duty.

b) Audit and Inspections

The CER will inform the MSO of its programme of audits and inspections for petroleum undertakings operating offshore for the forthcoming year. Where relevant, the MSO will inform the CER of its programme of audits and inspection of vessels carrying out petroleum activities by or on behalf of petroleum undertakings for the forthcoming year. Opportunities for the coordination of audit and inspection will be identified and where possible agreed.

Insofar as is possible, and only where it is relevant, the CER and MSO will share information relating to the outcome of audits/inspections carried out. This is particularly relevant to the CER function to monitor and enforce compliance of petroleum undertaking's General Duty.

c) *Communication with respect to Petroleum Undertakings*

Where the MSO becomes aware of a vessel under the auspices of a petroleum undertaking is operating in a manner not in accordance with statutory requirements, it will inform the CER.

Where through the course of its compliance assurance activities, the CER becomes aware of a matter which it believes is relevant to the functions relating of the MSO, it will inform the MSO.

d) *Incident Investigation*

Petroleum undertakings are required to notify the CER of petroleum incidents, which in turn will in most cases be investigated by the CER.

Under the Merchant Shipping Acts, the MSO may investigate incidents and accidents associated with marine activities and vessels for the purposes of reviewing compliance of the operator with maritime legislation, identification of any lessons to be learned and to instigate enforcement action where relevant.

In circumstances where a petroleum incident overlaps with marine incidents/accidents, both Bodies will liaise in order to:

- Establish lines of communication during each Bodies' respective investigative process;
- Share information where possible between investigative authorities to aid the investigative process; and
- Coordinate the incident investigation process where possible.

e) *Sharing of Information*

Insofar as is possible, and only where it is relevant, the CER and MSO will share information relating to their respective responsibilities. This is particularly relevant to the CER function to monitor and enforce compliance of petroleum undertaking's General Duty.

In order to facilitate the purposes of this Operational Agreement the Bodies will provide each other with as full and open access as is possible to all information necessary or expedient. These exchanges may be subject to restrictions or requirements such as those relating to confidentiality, data protection or freedom of information requirements. The CER and MSO accept that it is for the Body providing the information to state what, if any,

restriction there is to be on its usage and that each Body will treat the information it receives in accordance with any such restriction.

For the purposes of the FOI Acts, where information is held by one of the Bodies that falls under a request received by the other Body or, where a request to one Body covers information received from or concerning the other Body, the IRCG and the CER agree that there will be communication and cooperation in accordance with the FOI Acts.

Where a request for information to one Body does not come within the FOI Acts but concerns information held by one of the Bodies that covers information received from or concerning the other Body, the Bodies will cooperate on matters of disclosure of that information on a case by case basis recognising that there are restrictions on the CER regarding the disclosure of confidential information in the Electricity Regulation Act 1999.

f) General Consultation/Liaison Arrangements

The CER and the MSO will consult with each other when either is engaged in producing guidelines or procedural documentation which is relevant to the implementation of their respective statutory functions relevant to this agreement. In developing such guidelines or procedural documentation efforts will be made through consultation to align the work of both to the greatest extent possible.

Where consultation or interaction is required or mutually beneficial in the circumstances, responses will be submitted where possible within the scheduled timescale in order to allow for the orderly progression of the project in question.

Nominated points of contact will be identified in both Bodies, who will be responsible for managing communications in each of the above identified areas for cooperation and communication.

Where requested by the MSO, and if within the general scope of the CER's petroleum safety functions and in accordance with legal requirements on the disclosure and sharing of information held by the CER, the CER will provide assistance to the MSO on relevant technical matters (e.g. assistance on matters relating to petroleum activities).

Review of Operational Agreement

It is envisaged that the CER and MSO representatives will meet on an annual basis to review this Operational Agreement and monitor its relevance, effectiveness, operation, and in particular, the cooperative measures and consultation established in the areas of shared or overlapping responsibility. The first review will be carried out within 12 months of the adoption of the Operational Agreement.

This Operational Agreement is effective from the date of signing of the overarching MOU. This Operational Agreement is not legally binding on the Bodies but rather is an expression of individual and collective commitment to work together in order to realise the shared objectives expressed herein.

ANNEX II

Commission for Energy Regulation (CER) and Irish Coast Guard (IRCG) Operational Agreement

Objective and Scope of the Operational Agreement

The objective of this Operational Agreement between the Commission for Energy Regulation ("CER") and the Irish Coast Guard ("the IRCG") is to facilitate cooperation and mutual assistance between the CER and the IRCG in the discharge of their respective statutory responsibilities in order to:

- enhance the actions of both
- avoid unnecessary duplication of effort by both
- avoid the imposition of unnecessary regulatory burden

The purpose of this Agreement is to clearly identify the roles and responsibilities of the CER and the IRCG (the 'Bodies') as they may relate to each other and to set out the areas where both will cooperate and coordinate their activities. Both the CER and the IRCG are committed to a policy of ongoing cooperation and interaction with respect to the discharge of their respective statutory responsibilities. Notwithstanding this commitment to cooperate generally, the specific focus of this Agreement relates to cooperation and coordination of the regulation of petroleum undertakings within an offshore environment.

Statutory Responsibilities of IRCG and CER relevant to the scope of the Operational Agreement

a) IRCG

The IRCG is a nationwide emergency organisation and is a division of the Irish Maritime Administration of the Department of Transport, Tourism and Sport.

The purpose of the IRCG is to establish, promote and enforce safety and security standards, and by doing so, prevent as far as possible, the loss of life at sea, and on inland waters, and to provide effective emergency response services and to safeguard the quality of the marine environment.

The IRCG has responsibility for our national system of marine emergency management in Ireland's Exclusive Economic Zone (EEZ) and inland waterways. It is responsible for response to, and coordination of, maritime accidents which require Search & Rescue and Counter Pollution & Salvage operations. It also has responsibility for vessel traffic monitoring.

The marine emergency management functions that the IRCG carries out, relevant to the scope of this Agreement, are as follows:

- To provide a national marine emergency management service
- To develop and coordinate an effective regime in relation to marine pollution cooperation, preparedness and response including the direction and coordination of on-shore and at sea recovery operations
- To provide a response to marine casualty incidents and to monitor/intervene in marine salvage operations
- Issuing directions or taking direct action under the Minister's powers of intervention to prevent, mitigate or eliminate pollution
- Acting as the national maritime security single point of contact; Internationally designated Marine Assistance Service (MAS) for Ireland and act as a national point of contact between vessels and coastal states
- To provide a national automatic identification system and maritime awareness service of shipping and coastal traffic and deliver that picture to relevant parties.

Further detail and the other functions of the IRCG are set out at <http://www.dttas.ie/maritime/english/about-irish-coast-guard-0>

c) CER

The CER was established in 1999 and its role and functions have been expanded over time by legislation including the *Electricity Regulation Act 1999*, *Gas Act 1976*, *Gas (Interim) Regulation Act 2002*, *Energy (Miscellaneous Provisions) Act 2006 & 2012* and *Petroleum (Exploration and Extraction) Act 2010* (as are amended from time to time) and related secondary legislation. The CER has various safety and economic functions including the regulation of electricity and gas undertakings and ensuring the competitive, sustainable and reliable supply of electricity and natural gas at reasonable cost to Irish energy customers. The CER is also responsible for the safety regulation of upstream petroleum activities by petroleum undertakings, the safety regulation of gas supply, transmission, distribution, storage and use of gas, and the registration of electrical contractors and gas installers.

The specific functions of the CER which are relevant to the scope of this Agreement are to:

- regulate designated petroleum activities of petroleum undertakings with respect to safety;
- issue safety permits;
- monitor and enforce compliance of petroleum undertakings with their safety obligations under Part IIA of the *Electricity Regulation Act 1999*³,
- investigate and report to the Minister for Communications, Energy and Natural Resources on petroleum incidents;

³ As amended by the *Petroleum (Exploration and Extraction) Safety Act 2010*

- provide safety information to the public when appropriate.

The principal objective of the CER in carrying out its functions is to protect the public by fostering and encouraging safety as respects the carrying on of designated petroleum activities, with the duty to perform its functions in the public interest and to do all things necessary and reasonable to further its objectives and exercise its powers. How the CER discharges this petroleum safety regulatory role is set out in the regulatory document, the Petroleum Safety Framework.

The other functions of the CER are set out at www.cer.ie

Areas of Interface

The respective statutory responsibilities of the IRCG and the CER interface:

- where petroleum undertakings are operating offshore within Ireland's EEZ; and
- in offshore emergency planning and preparedness with respect to petroleum undertakings.

Areas for Cooperation and Coordination

In acknowledging each other's respective statutory responsibilities, functions and duties, both the CER and the IRCG will endeavour to liaise closely particularly in relation to the areas set out below:

a) Emergency Management Plan and Oil Spill Contingency Plan

The IRCG will inform the CER when Emergency Management Plans (EMP) and Oil Spill Contingency Plans (OSCP) submitted by petroleum undertakings to the IRCG are not to the sufficient standard.

b) Safety Case Assessment

The CER will formally consult with the IRCG as part of the assessment of safety cases, safety case revisions and the approval of safety case thorough reviews with respect to petroleum undertakings operating in an offshore environment. In particular the CER will share the Emergency Procedures section of safety cases in order to obtain the IRCG observations of the appropriateness of the emergency procedures/plans set out in the safety case.

IRCG observations, and any notifications under point a) above, are particularly relevant to the CER function to monitor and enforce compliance of petroleum undertaking's General Duty.

c) Emergency Planning and Preparedness

The CER and the IRCG will cooperate generally with respect to offshore emergency planning and preparedness and any major emergency exercises conducted offshore by petroleum undertakings

d) *Communication with respect to Petroleum Undertaking*

Where the IRCG becomes aware of a vessel under the auspices of petroleum undertaking is operating in an unsafe manner, it will inform the CER.

Where through the course of its compliance assurance activities, the CER becomes aware of a matter which it believes is relevant to the functions relating to the IRCG, particularly functions relating to the Emergency Management Plan and Oil Spill Contingency Plan, it will inform the IRCG.

e) *Sharing of Information*

Insofar as is possible, and only where it is relevant, the CER and the IRCG will share information relating to their respective responsibilities. This is particularly relevant to the CER function to monitor and enforce compliance of petroleum undertaking's General Duty.

In order to facilitate the purposes of this Agreement the Bodies will provide each other with as full and open access as is possible to all information necessary or expedient. These exchanges may be subject to restrictions or requirements such as those relating to confidentiality, data protection or freedom of information requirements. The CER and the IRCG accept that it is for the Body providing the information to state what, if any, restriction there is to be on its usage and that each Body will treat the information it receives in accordance with any such restriction.

For the purposes of the FOI Acts, where information is held by one of the Bodies that falls under a request received by the other Body or, where a request to one Body covers information received from or concerning the other Body, the IRCG and the CER agree that there will be communication and cooperation in accordance with the FOI Acts.

Where a request for information to one Body does not come within the FOI Acts but concerns information held by one of the Bodies that covers information received from or concerning the other Body, the Bodies will cooperate on matters of disclosure of that information on a case by case basis recognising that there are restrictions on the CER regarding the disclosure of confidential information in the Electricity Regulation Act 1999.

f) *General Consultation/Liaison Arrangements*

The CER and the IRCG will consult with each other when either is engaged in producing guidelines or procedural documentation which is relevant to the implementation of their respective statutory functions. In developing such guidelines or procedural documentation efforts will be made through consultation to align the work of both to the greatest extent possible.

Where consultation or interaction is required or mutually beneficial in the circumstances, responses will be submitted where possible within the scheduled timescale in order to allow for the orderly progression of the project in question.

Nominated points of contact will be identified in both Bodies, who will be responsible for managing communications in each of the above identified areas for cooperation and communication.

Where requested by the IRCG, and if within the general scope of the CER's petroleum safety functions and in accordance with legal requirements on the disclosure and sharing of information held by the CER, the CER will provide assistance to the IRCG on relevant technical matters (e.g. assistance on matters relating to well integrity).

Review of Agreement

It is envisaged that CER and IRCG representatives will meet on an annual basis to review this Agreement and monitor its relevance, effectiveness, operation, and in particular, the cooperative measures and consultation established in the areas of shared or overlapping responsibility. The first review will be carried out within 12 months of the adoption of the Agreement.

This Agreement is effective from the date of signing of the overarching MOU. This Agreement is not legally binding on the Bodies but rather is an expression of individual and collective commitment to work together in order to realise the shared objectives expressed herein.